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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,158	06/15/2001	Srinivas Gutta	US010281	9402
24737	7590	04/04/2006	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			SHELEHEDA, JAMES R	
			ART UNIT	PAPER NUMBER
			2623	
DATE MAILED: 04/04/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/882,158

Applicant(s)

GUTTA ET AL.

Examiner

James Sheleheda

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 16 February 2006. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

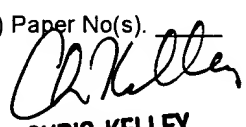
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-26.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).
13. ☐ Other: _____.


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2613

Continuation of 11. does NOT place the application in condition for allowance because:

On pages 9 and 10, of applicant's response, applicant argues that the previous action should not have been made Final as a new grounds of rejection was provided for claims 7, 8, 10 and 25 which was not necessitated by applicant's amendment.

In response, it is noted that while it appears the previous action did include a typo which indicated that the grounds of rejection was a 103 with Liebenow in view of Harada, a simple reading of the rejection clearly indicates that the actual rejection was solely based upon Liebenow. As all the claim limitations of claims 7, 8, 10 and 25 were clearly rejected in the exact same manner, in regards to Liebenow, as utilized in the previous non-final action, applicant's argument is not convincing. The presence of a mere typo in the header does not constitute a new grounds of rejection, and thus the Final rejection is proper.

On pages 10 and 11, applicant argues that Liebenow only discloses "manual" detection of users, and not "automatic".

In response,

1. Liebenow discloses wherein a user will identify to a computer system by selecting from a list, entering identify information via a remote control or depressing a specific switch. The computer system then "automatically" identifies the user based upon the received information. The identification step is clearly automatic as it involves a computer performing a function in response to input. As the user doesn't perform any sort of "manual" data insertion into the memory of the computer, automatic identification clearly takes place.

2. It is noted that applicant's current claims actually call for "automatic" identification of a user through a fingerprint recognition system. As fingerprint recognition involves a user pressing their finger onto a sensor for the computer to then interpret the input and identify the user, this is clearly synonymous with a user pressing a switch or button on a remote control to provide input information for a processor to interpret.

3. Finally, in response to applicant's arguments, on page 10, that the term "automatic" must be consistent with applicant's specification, it is noted that applicant's specification specifically recites wherein the detection system may include a television remote (see page 5, lines 3-6). The examiner is confused as to why applicant feels that Liebenow's remote control input (column 4, lines 61-66) would somehow not qualify. The detection system of Liebenow is clearly consistent with applicant's definition of "automatic", and thus applicant's arguments are not persuasive.

In response to applicant's arguments on page 11, in regards to a "predetermined viewing area", Liebenow clearly discloses wherein a user must be in range to operate and interact with the system (column 4, line 52-column 5, line 4 and column 8, line 49-column 9, line 3). Some predetermined viewing area is clearly present, as a user must be in range to interact with and use the system. As the claims don't require any specific defined range (such as 10 feet), Liebenow clearly meets the current broad claim limitations of a "predetermined viewing area".

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the entertainment recommended options of type music or television type) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

More specifically, the current claims only recite the presence of "entertainment options", and do not require any specific types of options. Further, it is noted that Liebenow specifically discloses wherein the options may include brightness and contrast (see Fig. 5 and column 8, line 49-column 9, line 26), clearly covering "television type" options, and wherein the options may include volume, base and treble for a radio receiver (Fig. 5 and column 8, line 49-column 9, line 26), clearly covering "music type" options.

In response to applicant's arguments, on page 12 of applicant's response, that no motivation was provided to combine Harada with Liebenow, it is noted that the motivation of only allowing specific users to access information is explicitly recited by Harada (column 5, lines 33-38) and has been repeatedly presented to applicant in the previous office actions. Applicant's arguments are not convincing.

In response to applicant's arguments on page 12, in regards to the Official Notice, it is noted that the previous Official Notice directed towards the use of a hand print recognition system was dropped in response to applicant's claim amendments. As the current claim language is in the alternative, this specific limitation is no longer required and thus was not presented in the previous action.

In response to applicant's argument on page 13, in regards to the combination of Liebenow and Harada, it is once again noted that applicant was previously supplied with the motivation of only allowing specific users to access information.

On page 13, applicant argues that no reasonable expectation of success for combining the references was provided. In response, while applicant has only provided a general allegation with no specific argument as to why a reasonable expectation of success, it is noted that the current combination of Liebenow and Harada merely calls for replacing the input means of Liebenow to identify a user (which could include a remote control for example) with the input utilized by Harada (such as fingerprint analysis) which provides a more secure means to identify a user. The combination clearly provide a reasonable expectation of success and applicant's arguments are not convincing.

In regards to applicant's arguments directed to claim 3, see above.

In regards to applicant's arguments on page 13, directed towards claims 4 and 5, Finseth specifically discloses utilizing a user profile which will store and retrieve a user's viewing history (column 2, lines 3-11, column 10, lines 8-67 and column 11, lines 1-20). This clearly meets the current claim limitation of a "view history", and thus applicant's argument is not persuasive.

In regards to applicant's arguments on page 13, directed towards claims 9, 11-21 and 23, Finseth specifically discloses

generating positive and negative values for entertainment options when creating a composite profile (column 6, lines 25-67 and column 7, lines 1-50). This clearly meets the current claim limitations and thus applicant's arguments are not persuasive.

In regards to applicant's argument on page 14, directed to claim 22, see above.